

In re) Fair Hearing No. 19,094
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Appeal of)

The petitioner appeals two decisions by the Department of Prevention, Assistance, Transition, and Health Access (PATH) reducing her Food Stamp benefits and denying her application for the Vermont Health Access Plan (VHAP).

1. The petitioner is a sixty-six-year-old disabled woman. Her husband is sixty-two and also disabled. The petitioner receives Medicare benefits but her husband does not. Prior to her husband's sixty-second birthday the couple received Social Security and SSI income totaling \$964.88 per month. Since that time, the petitioner's husband began to receive Social Security instead of SSI making the total income for the couple \$1,189 per month.

2. When the couple's income changed, PATH recalculated their Food Stamp eligibility. They were allowed a medical deduction of \$37.89 and a standard deduction of \$134. However, the increase in their income caused their shelter

allowance to go down from \$262.50 per month to \$150.44 because that figure is a percentage of income. After the above deductions were made, the couple was found to have \$866.67 in countable income, up from \$530.49 in their prior calculations. PATH notified them that the increased countable income figure would result in a reduction of their Food Stamps from \$99 to \$10 per month beginning on June 1, 2004.

3. The petitioner and her husband also recently applied for VHAP benefits.¹ Her husband was found eligible, but the petitioner was denied in a notice dated April 30, 2004 because she is insured by Medicare. She was found eligible for VHAP Pharmacy benefits and was charged a monthly premium of \$13. Her husband must pay \$45 per month for his VHAP benefits.

4. The petitioner says that she needs more food stamp benefits and more health benefits in order to survive. She and her husband need special foods and medicines due to diabetes. They also have economized by having their cable TV

¹ The couple had been found ineligible for Medicaid benefits as of May 31, 2004 due to excess income. A spenddown amount of \$2,316 was established for the couple to become eligible again for that program. The couple does not appeal that decision but it should be noted for the record that their income is in excess of the amount for a couple which is \$783 per month. See P-2420 B.

shut off. In addition, the petitioner says that her rent is due to go up on September 1, 2004.

ORDER

The decisions of PATH is affirmed.

REASONS

The VHAP program was intended to cover persons who have no other health insurance available to them. VHAP Reg. 4000. Under the regulations, persons are considered "uninsured" if "they do not qualify for Medicare." VHAP Reg. 4001.2. Therefore, a person who has Medicare is an "insured" person and thus not eligible for the program. PATH's decision to deny VHAP eligibility to the petitioner for this reason is consistent with its regulations. The petitioner can still get assistance with her medications through the VHAP Pharmacy program.

The Food Stamp regulations require that all income, including Social Security income, be counted in determining eligibility. F.S.M. 273.9(b)(2). This income is subject to the following deductions: a standard deduction of \$134 per household; a deduction to the extent that uncovered medical expenses exceed \$35 per month; and, shelter costs in excess of

50 percent of the household's income. F.S.M. 273.9(d)(1), (3) and (5).

The facts show that PATH followed its rules in calculating the countable income of the petitioners. The increase in countable income was caused not only by the increased Social Security income but by the resulting decrease in the shelter deduction. With shelter costs remaining the same, the percentage of income going to shelter went down when the income increased causing a reduction in the shelter deduction. The increase in Social Security resulted in the petitioner and her husband being considered a two-person household with countable income of \$866.67 per month. Under PATH's regulations, a family of that size with that countable income is only entitled to \$10 per month in Food Stamps. P-2590D.

The petitioner should be careful to keep track of all her uncovered medical expenses because they can be deducted from her Food Stamp countable income. She should also report any change in her shelter costs, especially an increase, immediately as that will affect the amount of her shelter deduction.

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